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10/597,969	08/15/2006	Winfried Antonius Henricus Berkvens	NL040176	8742

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EXAMINER

HIGHTER, TREVILLIAN H

ART UNIT	PAPER NUMBER
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4152

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11/14/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/597,969	Applicant(s) BERKVENS, WINFRIED ANTONIUS HENRICUS	
	Examiner Trevillian H. Highter	Art Unit 2109	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>15 March 2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-10 are pending in this application.

Priority

2. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d).

Specification

3. The disclosure is objected to because of the following informalities: The specification does not mention references 117 and F1, Fig. 1 in the drawings.

Appropriate correction is required.

4. The disclosure is objected to because of the following informalities: Section headings are not included, excluding the title and claims section headings. Title of the invention should appear in upper case.

Appropriate correction is required.

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.

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- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-4, 6, and 8-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Legout et al. (EP 1 322 094 A1), hereinafter Legout. Legout is cited in the Information Disclosure Statement filed by the applicant on 8/15/2006.

7. With respect to claim 1, Legout discloses a system for distributing a content (a content delivery network delivering content over the network, [0011], lines 13-15; Internet, with a number of end users and surrogate servers, [0072], lines 1-4), the system comprising:

a receiver for receiving the content (end-user's computer, [0055], line 7-8; client, [0028], line 30), the receiver comprising:

a selector for selecting a distributor of the content out of a plurality of distributors (process for selecting a surrogate server in a content delivery network having at least two servers, [0011], line 13-15);

content-requesting means for requesting the content from the distributor selected. (device used by the user for connecting to the network, [0029], lines 38-46);

receiving means for receiving the content (device used by the user for connecting to the network, [0029], lines 38-46);

identity-determining means for determining an identity associated with the content (content will be mapped to the identity object, [0060] lines 16-18); and

a verifier for verifying an availability of the content at the distributor (a table used for checking whether a surrogate server has a selected content, [0027], lines 14-15) based on the identity determined (content will be mapped to the identity object, [0060] lines 16-18),

the distributor of the content (surrogate server adapted to deliver content requested by a user, [0011], lines 15-16) comprising:

content request-receiving means for receiving a request for the content (device used by

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the user for connecting to the network, [0029], lines 38-46); and
a dispatcher for dispatching the content (device used by the user for connecting to the network, [0029], lines 38-46);
wherein the distributor is arranged to dispatch the content to the receiver (device used by the user for connecting to the network, [0029], lines 38-46); in response to receiving a request for the content from the receiver (content requested by user, [0011], line 16), and wherein the receiver is arranged to only select the distributor if the verifier verified the availability of the content at the distributor (checking whether the closest surrogate server has the ability to serve the content requested by the user, [0011], lines 24-35; [0017]; [0018]).

8. With respect to claim 2, Legout discloses wherein the receiver comprises identity-receiving means (device used by the user for connecting to the network, [0029], lines 38-46); and wherein the receiver is arranged to determine an identity by receiving the identity from one out of the plurality of distributors (the end user receives a meta-file containing real content id and the optimal surrogate server for each meta-content id, [0079], lines 24-29).

9. With respect to claim 3, Legout discloses wherein the receiver comprises identity-requesting means, and wherein the receiver is arranged to receive the identity after requesting the identity of the content from the distributor, wherein the distributor (103) (end user sends an HTTP request, [0078], lines 55-58; the end user receives a meta-file containing real content id and the optimal surrogate server for each meta-

content id, [0079], lines 24-29), comprises:

identity request-receiving means for receiving a request for the identity of the content (device used by the user for connecting to the network, [0029], lines 38-46; end user sends an HTTP request, [0078], lines 55-58; the end user receives a meta-file containing real content id and the optimal surrogate server for each meta-content id, [0079], lines 24-29);

an identity dispatcher for dispatching the identity and herein the distributor is arranged to dispatch the identity to the receiver in response to receiving a request for the identity of the content from the receiver; (device used by the user for connecting to the network, [0029], lines 38-46; proxy server that returns to the user, a meta-file containing identities, [0079], lines 24-29).

10. With respect to claim 4, Legout discloses wherein the system comprises a further distributor (content delivery network having at least two surrogate servers, [0011], 13-15), wherein the receiver is arranged to receive a further identity from the further distributor (end user sends an HTTP request, [0078], lines 55-58; the end user receives a meta-file containing real content id and the optimal surrogate server for each meta-content id, [0079], lines 24-29), wherein the verifier comprises a comparator for comparing the identity associated with the content with the further identity received, wherein the verifier is arranged to verify the availability of the content at the further distributor if the identity equals the further identity (comparing the identifier of the content requested by the user and the identifiers of the content contained in the closest

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surrogate server, [0017], lines 21-23, [0018]), and wherein the receiver is arranged to only select the further distributor if the verifier verified the availability of the content at the further distributor (checking whether the closest surrogate server has the ability to serve the content requested by the user, [0011], lines 24-35, [0017], [0018]).

11. With respect to claim 6, Legout discloses wherein the receiver comprises identity-deriving means, and wherein the receiver is arranged to derive the identity from content received from one out of the plurality of distributors (proxy server that returns to the user, a meta-file containing real content id and the surrogate server for each meta-content id, [0079], lines 24-29).

12. With respect to claim 8, Legout discloses a receiver for receiving the content, the receiver comprising: (end-user's computer, [0055], line 7-8; client, [0028], line 30), a selector for selecting a distributor of the content out of a plurality of distributors (a process for selecting a surrogate server in a content delivery network having at least two servers, [0011], line 13-15);

content-requesting means for requesting the content from the distributor selected.

(device used by the user for connecting to the network, [0029], lines 38-46);

receiving means for receiving the content (device used by the user for connecting to the network, [0029], lines 38-46);

identity-determining means for determining an identity associated with the content

(content will be mapped to the identity object, [0060] lines 16-18); and

a verifier for verifying an availability of the content at the distributor (a table used for

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checking whether a surrogate server has a selected content, [0027], lines 14-15) based on the identity determined (content will be mapped to the identity object, [0060] lines 16-18),

and wherein the receiver is arranged to only select the distributor if the verifier verified the availability of the content at the distributor (checking whether the closest surrogate server has the ability to serve the content requested by the user, [0011], lines 24-35; [0017]; [0018]).

13. With respect to claim 9, Legout discloses a method of distributing a content, (surrogate server adapted to deliver content requested by a user, [0011], lines 15-16), comprising the steps of:

selecting a distributor of the content out of a plurality of distributors (process for selecting a surrogate server in a content delivery network having at least two servers, [0011], line 13-15),

requesting the content from the distributor selected (device used by the user for connecting to the network, [0029], lines 38-46). If the device request content, a method to operate the device for requesting content is inherent,

dispatching the content to the receiver in response to receiving the request for the content from the receiver (device used by the user for connecting to the network, [0029], lines 38-46, when the device dispatches content, a method to operate the device for dispatching content is inherent),

receiving the content at the receiver (device used by the user for connecting to the network, [0029], lines 38-46, when the device receives content, a method to operate the device for receiving content is inherent),
determining an identity associated with the content (content will be mapped to the identity object, [0060] lines 16-18), and
verifying an availability of the content at the distributor ([0011], lines 16-17, 24-35) based on the identity determined (comparing the identifier of the content requested by the user and the identifiers of the content contained in the closest surrogate server, [0017], lines 21-23, [0018]), and wherein, in the step of selecting, the distributor is only selected if the verifier verified the availability of the content at the distributor ([0011], lines 24-35; [0017], [0018]).

14. With respect to claim 10, Legout discloses a computer program product enabling a receiver that is part of a system for distributing a content (process for selecting a surrogate server in a content delivery network having at least two servers, [0011], line 13-15), to select a distributor of the content (out of a plurality of distributors process for selecting a surrogate server in a content delivery network having at least two servers, [0011], line 13-15), to request and receive the content from the distributor selected (device used by the user for connecting to the network, [0029], lines 38-46), to determine an identity associated with the content (content will be mapped to the identity object, [0060] lines 16-18), to verify an availability of the content at the distributor based on the identity determined (comparing the identifier of the content requested by the user

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and the identifiers of the content contained in the closest surrogate server, [0017], lines 21-23, [0018]), and to only select the distributor after verifying the availability of the content at the distributor (checking whether the closest surrogate server has the ability to serve the content requested by the user, [0011], lines 24-35; [0017]; [0018]).

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Legout as applied to claims 1, 2, and 4 above, in view of Kaufman et. al. (~~Patent #~~ WO 0191417 A2), hereinafter Kaufman. Kaufman is cited in the Information Disclosure Statement filed by the applicant on 8/15/2006.

17. With respect to claim 5, Legout discloses limitations of a system distributing content, a receiver that comprises identity-receiving means, and wherein the system comprises a further distributor. However, Legout does not disclose a system wherein the receiver comprises quality-determining means for determining a quality of receiving

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the content of the distributor, and wherein the receiver is arranged to select the further distributor in dependence upon the quality determined.

Kaufman discloses the limitation wherein the receiver comprises quality-determining means for determining a quality of receiving the content of the distributor (client wrapper object determines the quality of the stream from the CDN, page 22, lines 9-12) and wherein the receiver is arranged to select the further distributor in dependence upon the quality determined (detects a problem with network quality, it initiates a CDN switch-over...to link to another CDN for the content, page 20, lines 11-13; client sends a request to the new CDN server, page 22, lines 14-21).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Legout with the teachings of Kaufman to incorporate quality-determining means into a system for distributing content, in order to cause little or no disruption to the content being displayed (page 22, lines 3-4).

18. With respect to claim 7, Legout discloses wherein the receiver comprises identity-receiving means. However, Legout does not disclose wherein the system comprises a further distributor, wherein the further distributor comprises: verification request-receiving means and a verification result dispatcher for dispatching a verification result.

Kaufman discloses wherein the system comprises a further distributor (another CDN, page 20, lines 11-13), wherein the further distributor comprises: verification request-receiving means for receiving a verification request (client object monitor sends

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a switch-over request message to the monitoring manager, page 20, lines 16-18, when a switch-over request message is sent to monitoring manager, the means for receiving the message is inherent) for verifying availability at the further distributor of content associated with a further identity (selects a new CDN based on such factors as availability, page 21, lines 3-5), the further identity being part of the verification request (identity of the new CDN...is provided to the client in the form of a CDN switch-over message, page 21, lines 7-9); and a verification result dispatcher for dispatching a verification result (switch-over reply message, page 21, lines 12-13), wherein the further distributor is arranged to, in response to receiving the verification request from the receiver, the further distributor is arranged to verify availability at the further distributor of content associated with the further identity and to dispatch the verification result to the receiver (monitoring manager selects a new CDN based on such factors as availability, page 21, lines 3-5; switch-over reply message received by client, page 21, lines 12-13), and wherein the receiver is arranged to only select the further distributor after dispatching a verification request to the further distributor and receiving a verification result that verifies the availability of the content at the further distributor (monitoring manager selects a new CDN based on such factors as availability, page 21, lines 3-5, switch-over reply message received by client, page 21, lines 12-13).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Legout with the teachings of Kaufman to incorporate a further distributor with verification means and a verification dispatcher with

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a system containing a receiver with identity receiving means, in order to cause little or no disruption to the content being displayed (page 22, lines 3-4).


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trevillian H. Hightner whose telephone number is (571) 270-3806. The examiner can normally be reached on Monday-Thursday 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nabil El-Hady can be reached on (571) 272-3963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TH 10/16/2007


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SUPERVISORY PATENT EXAMINER